IN THE

Supreme Court of the United States

OCTOBER TERM, 1955

No. 638

AVCO MANUFACTURING CORPORATION
and THE HARRY ALTER COMPANY, INC.,
Petitioners,

against

HAZELTINE RESEARCH, INC.,
Respondent.

REPLY BRIEF FOR RESPONDENT IN OPPOSITION TO PETITION FOR CERTIORARI

There is one seriously misleading statement and one erroneous statement in Petitioners' Reply Brief which require answer.

At page 2, Petitioners state that the Record shows that Hazeltine licenses to 16 companies will have expired prior to the expiration of the patent in suit on January 7, 1958. The references to the Record cited by Petitioners (R. 1251, 1252, 1254, 825, 827-8)* show that such 16 licenses were granted during the period from about November 14, 1950 to October 17, 1951, the date of the filing of the Complaint in this Action. The Hazeltine license agreement is for a period of 5 years with an automatic renewal for an additional period of 3 years unless the licensee, at least 6 months before the expiration of the initial 5-year period,

* See also R. 821. The reference citations are silent as to the dates of the Admiral and Sylvania licenses referred to by Petitioners.

gives notice of its election to terminate the license (R. 60). Thus, unless the licensee gives affirmative notice of termination, the license runs for a period of 8 years.

In the case of the 16 licenses in question, if no such notice were given, the earliest of the licenses would expire on or after November 14, 1958, considerably after the expiration of the Toulon patent. There is no evidence of record that any licensee has given any such notice.* In fact, the time has already passed for any licensee holding a license dated earlier than September 1, 1951, near the end of the period in question, to give notice of its election to terminate; such notice would have had to be given prior to March 1, 1956. The record does not show whether the license of any major manufacturer was dated within the final six weeks of the 11-month period in question.

In brief, there is nothing in the record to show whether it is still open to any substantial manufacturer of television receivers to terminate its Hazeltine license which, if it does not do so, extends beyond the life of the patent in suit.

The erroneous statement appears at page 8 of Petitioners' Reply Brief:

> "* * * Loughren, as Chairman of the Joint Technical Advisory Committee for the F.C.C. (R. 284) had the opportunity to induce the industry to use (R. 333) (his later development)."

At the time he testified in 1953, Mr. Loughren was Chairman of the Joint Technical Advisory Committee, a body created as an adviser to the Federal Communications Commission on technical problems (R. 284); it has no influence upon the television manufacturing industry or on what type of apparatus it will produce. Thirteen years

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* Although not a matter of record because involving a time period succeeding the trial in this case, none of the 16 licensees has in fact given such notice of termination.

earlier, in 1940, Mr. Loughren was a member of Panel 8 of the National Television System Committee, a totally different body charged with recommending signal specifications for the transmission of black-and-white television programs. Those recommendations included the type of synchronizing signal to be transmitted (R. 332-333). That body likewise had no influence over the type of apparatus which the television industry manufactured. There is no relation between these two technical bodies (R. 284) with which Mr. Loughren was associated on separate occasions thirteen years apart.

It is submitted that the Petition should be denied.

Respectfully,

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